

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|------------------------|---|--------------------|
| THOMAS J. INGRASSIA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:11CV2062 AGF |
| |) | |
| KEITH SCHAFER, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

There are several matters before the Court. Plaintiff has filed a motion to file an amended complaint, the Defendants who have been served with process have filed a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, and certain Defendants have not been served because Plaintiff has failed to provide the Court with their current addresses. The Court will address these issues in turn.

1. Plaintiff's Amended Complaint

Plaintiff has moved to file an amended complaint. Pursuant to Rule 15(a)(1) of the Federal Rules of Civil Procedure, Plaintiff may file his amended complaint "as a matter of course." As a result, the motion is granted.

Pursuant to 28 U.S.C. § 1915(e), the Court is required to review the amended complaint and dismiss it if it is frivolous, malicious, or fails to state a claim upon which relief can be granted.

The Court reviewed Plaintiff's original complaint under 28 U.S.C. § 1915(e) on March 8, 2012, and determined that the complaint survived review as to twenty-eight of the named Defendants. The Court has reviewed the amended complaint and finds that it neither adds nor subtracts anything substantial from the amended complaint, except for the fact that the amended complaint sues Defendants in their individual capacities only. As a result, the Court will allow the case to proceed forward in the same manner as was decided in the March 8, 2012, Memorandum and Order, although Defendants are no longer sued in their official capacities.

2. Defendants' Motion to Dismiss

Because Plaintiff has filed an amended complaint, Defendants' motion to dismiss is moot. Defendants may file a motion to dismiss addressing the amended complaint within the time period allowed by the Federal Rules of Civil Procedure.

3. Service of Process

The Court has been unable to serve process on Defendants Eric Miller, Bruce Weeks, Linda Knox, Unknown Kim, and Susan Kraemer because Plaintiff has not provided the Court with their current addresses. Under Rule 4(m) of the Federal Rules of Civil Procedure, the expiration for serving these Defendants was June 6, 2012. Because Plaintiff is in forma pauperis and the Court is responsible for service of process, the Court will allow Plaintiff an additional thirty days to provide current addresses for these Defendants. If Plaintiff fails to

timely provide the Court with the addresses, the Court will dismiss these Defendants under Rule 4(m).

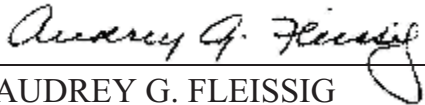
Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion to file an amended complaint [Doc. 16] is **GRANTED**.

IT IS FURTHER ORDERED that Defendants' motion to dismiss [Doc. 14] is **DENIED** without prejudice.

IT IS FURTHER ORDERED that Plaintiff shall provide the Court with addresses where Defendants Eric Miller, Bruce Weeks, Linda Knox, Unknown Kim, and Susan Kraemer can be served with process no later than thirty (30) days from the date of this Memorandum and Order. Failure to do so will result in the dismissal of these Defendants.

Dated this 6th day of June, 2012.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE